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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/885,566	06/20/2001	Joachim Markert	70201	6188

7590 09/08/2004

McGLEW AND TUTTLE  
SCARBOROUGH STATION  
SCARBOROUGH, NY 10510-0827

EXAMINER

MCANULTY, TIMOTHY P

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/885,566

Applicant(s)

MARKERT, JOACHIM

Examiner

Timothy P McAnulty

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 20 May 2004.
- 2a) ☐ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-24 and 28-34 is/are pending in the application.
- 4a) Of the above claim(s) 3-10, 12, 19, 22 and 28-34 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1, 2, 11, 13-18, 20, 23 and 24 is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted or amended claims 28-34 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the claims require a rotation device connected to said third rotation connection.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 28-34 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

2. This application is in condition for allowance except for the presence of claims 3-10,12,19,22, and 28-34 drawn to non-elected species. Applicant must cancel the noted claims or take other appropriate action (37 CFR 1.144). If claims 3-10,12,19, and 22 are to be rejoined because they depend from an allowable claim generic to some of the species, those claims must be placed in condition for allowance, e.g., no 35 USC § 112 issues may be present.

The prosecution of this case is closed except for consideration of the above matter.

### ***Drawings***

3. A replacement drawing was received on 20 May 204. These drawings are not approved. Figure 6 cannot now be amended to show the connection device 10, which was originally only shown in non-elected embodiments, i.e., the connection device was not originally part of the elected embodiment.

### ***Allowable Subject Matter***

4. Claims 1,2,11, 13-18, 20,21, 23, and 24 are allowed.

Art Unit: 3682

The prior art disclose or teaches a gear comprising a motor having a drive shaft and a first part having an auxiliary shaft extending into a second part wherein each of the first part and the second part are rotatable relative to one another and to the drive shaft. However, the prior art does not disclose or teach said shaft being radially spaced from the axis of the drive shaft, i.e., the shaft and the drive shaft are not axially aligned.

***Response to Amendment***

5. Applicant is reminded that claims 3-10,12,19, and 22 may be rejoined as being dependent on allowable claim 1 that is generic to the non-elected embodiments encompassed by those claims. Claims 3-10,12,19, and 22, must be in condition for allowance, e.g., no 35 USC § 112 issues can be present.

***Conclusion***

6. This application is in condition for allowance except for the following formal matters:  
The still pending withdrawn claims directed to a non-elected species.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

tpm 

  
SUPERVISOR  
PATENT EXAMINER  
CENTER 3600